



Office of the City Auditor

## CONSENT CALENDAR

October 28, 2014

To: Honorable Mayor and Members of the City Council  
From: Ann-Marie Hogan, City Auditor  
Submitted by: Ann-Marie Hogan, City Auditor  
Subject: Injury Prevention: Better Investigations and Data Use will help the Berkeley Police Department and the City (Audit Report)

### RECOMMENDATION

Request the City Manager report back by April 28, 2015, and every six months thereafter, regarding the status of recommendations until reported fully implemented.

### CURRENT SITUATION AND ITS EFFECTS

Police work is highly unpredictable, which makes it difficult to set safety standards that will help prevent injuries in all cases. Management should, however, work to better understand the severity and nature of injuries to identify the areas it can control and implement or improve injury prevention measures in those areas. Better injury analysis and coordinated data-collection methods will help the Berkeley Police Department reach that goal.

City management can take action to prevent a workplace injury from recurring when it understands why the injury happened. This means identifying more than just the surface cause and gaining information about the core cause or causes of the injury. This helps management address the problem that led to the injury, not just the symptom. The Department of Human Resources can assist management in collecting this information by providing written guidance for all City supervisors performing injury investigations.

### FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley spent over \$6 million for workers' compensation claims in fiscal year 2013: \$742,000 for claims filed in 2013 and \$5.3 million for claims filed in previous years going as far back as 1950. Likewise, the Berkeley Police Department spent nearly \$2.4 million in fiscal year 2013 on workers' compensation costs: \$1.9 million to help fund the City's Workers' Compensation Fund and nearly \$500,000 in payroll costs for employees out on leave because of a workplace injury. Implementing our recommendations should help control these costs.

### BACKGROUND

Members of the Berkeley Police Department serve to protect Berkeley residents and visitors against crime. Police work by its very nature puts employees at risk of injury. Officers come into contact with combative subjects; must quickly get out of their patrol

cars after sitting for a long period of time; and must respond to situations requiring agility and physical strength. Police patrol work is not the only area that puts personnel at risk of injury: training simulations create chances for injury; dispatchers experience high levels of stress in handling emergency calls; and work environments, including patrol cars and parking enforcement vehicles, are conducive to ergonomic injuries.

#### ENVIRONMENTAL SUSTAINABILITY

Our office manages and stores audit workpapers and other documents electronically to significantly reduce our use of paper and ink. Our recommendation suggesting online training provides management an opportunity to support the City's environmental sustainability goals. By using an online training format, management will help reduce carbon footprints by removing the need for travel to training destinations.

(Recommendation 1.2)

#### RATIONALE FOR RECOMMENDATION

Implementing our recommendations will assist City management in its ongoing efforts to reduce workers' compensation costs by reducing or preventing employee injuries.

#### CONTACT PERSON

Ann-Marie Hogan, City Auditor, (510) 981-6750

#### Attachments:

- 1: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City

# City of Berkeley Office of the City Auditor



## **Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City**

Prepared by:

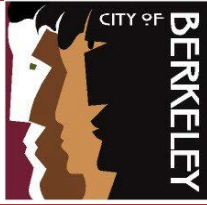
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Presented to Council October 28, 2014

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# City of Berkeley - Office of the City Auditor

## Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City

October 28, 2014

### Purpose of the Audit

We conducted this audit to determine if the Berkeley Police Department investigates injuries to understand the root cause and puts an emphasis on preventing the recurrence of significant injuries. We also conducted this audit to identify whether there are existing systems and data that the department can use to improve this process.

### Executive Summary

#### **Unpredictable nature of police work puts officers at risk of a career-ending injury**

The Berkeley Police Department spent \$2.4 million in fiscal year 2013 on workers' compensation costs. Just one injury reported that year is expected to cost almost \$200,000 over time. Worse than the cost is the potential for an injury to end an officer's career. The unpredictable nature of police work makes it difficult for management to control the environment and prevent injuries. Management should, however, work to better understand the severity and nature of injuries to identify the areas it can control and implement or improve injury prevention measures in those areas. Better injury analysis and coordinated data-collection methods will help the Berkeley Police Department reach that goal.

#### **Injury cause analysis helps identify a problem, not a symptom**

Supervisors investigate injuries, but they do not have the written guidance they need to perform the work using systematic practices aimed at identifying why the injury occurred. The City's Occupational Health & Safety Officer reported that using the core-related-cause principle is an effective and efficient tool for focusing on the core cause of an injury. Like root-cause analysis, which is a more extensive analysis used for large scale accident and injury investigations, the core-related-cause approach helps management address the problem that led to the injury instead of a symptom.

#### **Workers' compensation information sharing will help with injury analysis**

Workers' compensation claim and cost information will help management with its analysis of workplace injuries and safety concerns. It will also help management understand the long-term impact that injuries have on the City.

**A written employee wellness program will help support the BPD's injury prevention goals**

The police department implemented many elements of a robust employee wellness program, but resource restrictions have delayed the department's ability to fully integrate the program into its injury prevention and training procedures. However, by defining what it can offer and establishing training goals in a written wellness plan, the department will help ensure that its established efforts continue.

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## **Recommendations**

The Berkeley Police Department follows many best practices for preventing workplace injuries. However, there are opportunities within the department and citywide to further assist management in understanding injury risk areas and identify where it should focus its limited resources on injury prevention. Our recommendations include:

- Providing supervisors with written guidance on performing injury investigations using the core-related-cause principle.
- Sharing workers' compensation information between Human Resources and the departments that reported the injuries.
- Coordinating efforts on injury data collection and reporting.
- Updating injury code classifications so that data are more meaningful for injury analysis.
- Establishing a written employee wellness plan.

We provided our recommendations to the Berkeley Police and Human Resource departments prior to publishing this report to allow management to begin implementing changes as soon as possible.

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A full copy of the report can be obtained at:

[http://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/A.2\\_RPT\\_Police%20Injuries\\_Final.pdf](http://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/A.2_RPT_Police%20Injuries_Final.pdf)

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## AUDIT OBJECTIVES

Using information from injury investigations provides management with insight for preventing similar, or perhaps worse, injuries from occurring. We conducted this audit to determine whether:

- The Berkeley Police Department investigates injuries to understand the root cause and puts an emphasis on preventing injuries that are the most detrimental to personnel and the department.
- There are opportunities for the Berkeley Police Department to use existing data and systems to improve injury review and investigation practices, and implement injury-prevention measures.

In our continuing efforts to strengthen citywide policies and procedures, we used information from this audit to develop global recommendations for improving how all City staff investigate injuries and receive information for injury analysis.

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## BACKGROUND

### **The Berkeley Police Department serves to protect Berkeley residents and visitors**

Police work is fertile ground for work-related injuries

Members of the Berkeley Police Department serve to protect Berkeley residents and visitors against crime. The department delivers services to the public by responding to distress calls, patrolling neighborhoods, and speaking to the community about safety tips and crime prevention. The department consists of 259 sworn police officers and non-sworn professional staff who work together to meet the safety needs of the community.

Police work by its very nature puts employees at risk of injury. Officers come into contact with combative subjects; must quickly get out of their patrol cars after sitting for a long period of time; and must respond to situations requiring agility and physical strength. Police work is highly unpredictable, which makes it difficult to set safety standards that will help prevent injuries in all cases. Police patrol work is not the only area that puts personnel at risk of injury: training simulations create chances for injury; dispatchers experience high levels of stress in handling emergency calls; and work environments, including patrol cars and parking enforcement vehicles, are conducive to ergonomic injuries.

BPD Professional Standards division handles injury reports

The Berkeley Police Department's Professional Standards division monitors police injuries and workers' compensation claims for both sworn and nonsworn personnel. Professional Standards staff receive injury reports for all police personnel before sending them to Human Resources for assessment. Human Resources staff review the reports to determine whether the injury requires an investigation by the department's Occupational Health and Safety staff.

BPD Safety Committee reviews and assesses all injuries

The Berkeley Police Department's Safety Committee also receives information on workplace injuries. The Safety Committee Chair performs a preliminary review of each incident and records it in an injury log. Committee members meet monthly to review all reported injuries since the last meeting, look for trends and patterns, and identify safety concerns. The Safety Committee:

- Discusses each injury and assigns descriptions that best explain the activity or activities related to each injury.
- Identifies methods for preventing repeat occurrences of injuries.
- Responds to and discusses employee safety concerns.
- Makes recommendations to management for new or improved safety equipment and procedures.
- Receives guidance and support from Occupational Health and Safety staff.

The Berkeley Police Department Safety Committee is generally comprised of staff from the Professional Standards, Support Services, Operations, and Investigations divisions; union representatives from the Berkeley Police Association and SEIU Local 1021; and the City's Occupational Health and Safety Officer. The members do not investigate injuries; however, they may follow up with an injured employee and his or her supervisor to learn more about the incident.

Supervisors must investigate all injuries to look for the root cause

City Administrative Regulation 2.7<sup>1</sup> delegates the investigation of each injury to the injured employee's supervisor. The policy requires supervisors to identify the root cause and describe the incident that led to the injury. The City augments its policy with a written Injury and Illness Prevention Plan. The plan provides a

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<sup>1</sup> City of Berkeley Administrative Regulation 2.7: Workers' Compensation Procedures and Responsibilities



brief summary of each supervisor’s responsibility to investigate injuries, requires the City’s Occupational Health and Safety Officer to assist in investigations, and meets the California State<sup>2</sup> requirement to establish an injury and illness prevention program. The City’s plan helps ensure management and staff identify, evaluate, and correct hazards and unsafe conditions. It also allows for disciplinary action up to and including termination of employment when staff fail to comply with safety rules and procedures.

BPD has taken steps to reduce injuries

In an effort to reduce injuries, the Berkeley Police Department has increased its training efforts and analyzed officer equipment and work environments. The department provides:

- Training on the proper use of weight and exercise room equipment.
- New-hire training on how to properly store and carry necessary equipment.
- Tactical training in areas of officer vulnerability, such as defensive tactics and car stops.
- Lighter duty belts that reduce officer carrying weight and that allow for greater freedom of movement.

Berkeley is committed to safety

The City of Berkeley is committed to preventing accidents and injuries, and supports a work environment where employees are fully engaged and share the responsibility for and commitment to safety. The City demonstrated its commitment to safety during National Safety Month in June 2014 by providing information to City staff on a variety of topics including safe driving practices, ergonomics, and staying safe in public places.

BPD has lower workers’ comp rates compared to similar jurisdictions

The City hired a contractor to perform a safety and risk-control assessment to identify ways for lowering workers’ compensation claims rates in the Department of Public Works and the Berkeley Fire and Police departments. According to the contractor, the Berkeley Police Department is among the lowest in both the number of claims and loss when compared to five other police departments with similar characteristics and operations. The contractor obtained actuarial data from fiscal years 2009 to 2013 to draw its conclusions. The Department of Human Resources is

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<sup>2</sup> California Code of Regulations, Title 8, Section 3203: <http://www.dir.ca.gov/title8/3203.html>

Audit is not intended to assess the use of Tasers; Council is evaluating the use of the tool

currently working with the contractor to finalize the benchmarking report, and will reference the final analysis in the department's safety report to City Council later this year or in 2015. City staff will make the safety report available in [Records Online](#).<sup>3</sup>

The law enforcement community in general believes Tasers are an effective method for preventing injuries to both officers and combative subjects. Tasers, however, are not used by the Berkeley Police Department. The City Council and City Management are currently researching whether the City should allow the police department to use the tool.<sup>4</sup> Our audit was not designed or intended to include the complex and detailed analysis necessary to draw a conclusion as to whether Tasers would help the Berkeley Police Department reduce its injury rate. However, implementing our recommendations will help with providing City Council and City Manager with data about injuries resulting from altercations with combative subjects.

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## FINDING AND RECOMMENDATIONS

### **Finding 1: Better injury analysis, use of existing data, and a written wellness program will help reduce injuries and improve employee health and fitness**

The Berkeley Police Department will benefit from better injury analysis and data collection methods. The department collects injury data using coding and reporting systems that do not provide enough information to understand the severity and nature of injuries. This leads to management receiving incomplete information on the injuries it can control and that have the most significant impact. Citywide, Supervisors investigate injuries but they do not have the written guidance they need to perform the work and understand how to apply the core-related-cause principle to their investigations.

Continued sharing of information between Human Resources and individual departments about workers' compensation claims and costs will help management understand the severity of injuries and help with further analysis of safety concerns. It would also help management understand the long-term impact that injuries have on the City.

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<sup>3</sup> Records Online: <http://www.ci.berkeley.ca.us/recordsonline/search.aspx>

<sup>4</sup> May 6, 2014 Council Item: [http://www.ci.berkeley.ca.us/Clerk/City\\_Council/2014/05\\_May/Documents/2014-05-06\\_Item\\_15\\_Requesting\\_a\\_Report\\_on\\_the\\_Possible.aspx](http://www.ci.berkeley.ca.us/Clerk/City_Council/2014/05_May/Documents/2014-05-06_Item_15_Requesting_a_Report_on_the_Possible.aspx)

BPD is on the right track with proposed employee wellness program

The Berkeley Police Safety Committee proposed an employee wellness program as a method to prevent or reduce injuries from training, exercise, workouts, repetitive-stress, mental stress, poor health, and several presumptive illnesses.<sup>5</sup> The police department has implemented several elements of the robust program, including diet, exercise, and fatigue mitigation training sessions, but has not established a written training and wellness plan. Resource restrictions have delayed the department's ability to fully integrate the proposed wellness program into its injury prevention and training procedures. However, documenting the existing program will help ensure that the department meets its employee wellness training goals with the limited resources it does have.

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**City policy requires supervisors to identify the root cause of an injury**

One goal of performing injury investigations is to find where safety practices failed and can be improved. This helps management understand whether it needs to implement safety improvements or whether staff failed to follow safety procedures. City policy requires supervisors to identify the root cause of an injury when investigating staff injuries; however, the City has not established written procedures for performing the investigations. Historically, supervisors received limited training on performing investigations and the City's written guidance focuses only on the timeline for completing injury reports.

Root-cause analysis is one method for performing injury and accident investigations. This is a detailed analysis that generally applies to investigations performed by industries that should have clearly defined and established safety procedures in place to prevent accidents and injuries. For example, the agriculture, construction, and transportation industries apply root-cause analysis in their investigations to identify whether breaks from or failures in safety procedures led to serious injuries or death. While methods used in these industries are not fully applicable to many of City staff's injuries, the concept of identifying the cause(s) of an injury applies to all City operations. It will help ensure staff are following safety procedures and help identify new or improved injury-prevention measures.

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<sup>5</sup> California Labor Code Section 3213 requires claims that include cancer, hernia, hearing loss, and psychological disorders reported by police and fire safety employees to be considered work related. However, these claims cannot be tied to a particular policy, procedure, or action that could have prevented the injury.

Understanding the core cause of an injury helps identify solutions to prevent it from recurring

Although it may not be practical to do an extensive investigation for all injuries, the spirit and intent behind root-cause analysis should be used to help guide investigations. According to the City's Occupational Health and Safety Officer, this can be accomplished using the principle of core related cause. Based on the safety officer's description, applying the core-related-cause principle will help ensure supervisors collect more than just surface information about an injury in an effective and efficient manner. It will also help them identify the series of events that led to an injury, and whether there were multiple causes related to the injury and the relationship between those causes. According to the safety officer, the core-related-cause principle is an emerging concept in Occupational Health Psychology and Cognitive Safety research.

Whether using root-cause analysis or the core-related-cause principle, it is essential that supervisors collect the correct information for analysis. Ensuring supervisors collect the right information about what caused an injury means making sure they:

- Understand when a detailed investigation is necessary.
- Understand when to contact Occupational Health and Safety staff for assistance.
- Identify the relationship between contributing factors that led to an accident/injury.
- Identify all circumstantial connections that led to an accident/injury.
- Provide management with sufficient information so that they can take action to prevent recurrence.

Safety officer's investigation practices agree with industry standards

The Occupational Health and Safety Officer reportedly uses the core-related-cause principle to perform accident and injury investigations and has been providing training on this principle since joining the City in August 2013. Training did not include supervisors from the police department; however, the City's Safety Officer does plan to provide them with the training. We did not cover the safety officer's performance in the scope of our audit. However, we evaluated the safety officer's description of the core-related-cause principle and we determined that it agrees with the safety industry's guidance for accident and injury investigations.

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**Investigations are for gathering facts, not for finding fault**

It is essential that management identify when an injury resulted from staff failing to apply required safety procedures and follow that up with appropriate disciplinary action. This helps ensure that employees do not continue to bypass safety protocols or influence others to do the same. Best practices suggest that management is better able to learn whether an employee was injured because of a break from procedures when an injury investigator is not also the person that recommends and initiates disciplinary action. The role of the injury investigator is to find out what happened – identify the cause – not identify whom is to blame.

The Berkeley Police Department has procedures that separate the roles of those required to perform an injury investigation and those required to identify whether disciplinary action is warranted. City policy, however, does not make that distinction. The City's Injury and Illness Prevention Program indicates that a failure to follow safety procedures could lead to disciplinary action; however it does not clearly state that the person performing accident and injury investigations should not also be the person that initiates disciplinary action if appropriate. In fact, the policy suggests that this might be the same person: City policy requires supervisors to perform the injury investigation and requires an employee's performance evaluation to include a review of the employees' adherence to the City's Injury and Illness Prevention Program.

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**Management must focus its efforts on preventing severe injuries**

The Berkeley Police Department's Safety Committee does not have information about the severity of injuries. Severe injuries can significantly alter, even end, an employee's career, and they greatly increase the City's workers' compensation costs. Having this information would help management understand where to focus its injury prevention efforts. Significant injuries are generally those that require time away from work or result in an employee working modified duty. Modified duty means employees return to work in a limited capacity based on their physicians' assessments of their physical and mental capabilities. It is a stepping stone to returning to work full time. In fiscal year 2013, the Berkeley Police Department received 99 injury and illness exposure reports. However, only 28 resulted in time off work (i.e., lost time). Once data are filtered to identify only those injuries that required time

away from work or modified duty assignments, management can better understand its injury rates:

<b>Berkeley Police Department Injury and Illness Exposure Reports Fiscal Year 2013</b>			
	<b>Sworn</b>	<b>Nonsworn</b>	<b>Total</b>
<b>Injury and illness exposure<sup>1</sup> reports</b>	81	18	<b>99</b>
<b>Injuries resulting in lost time</b>	15	13	<b>28</b>
<b>Injuries resulting in modified duty<sup>2</sup></b>	9	4	<b>13</b>
<sup>1</sup> The Berkeley Police Department keeps track of when officers are exposed to illness in case the exposure converts to the actual illness, which generally does not happen. <sup>2</sup> In all but one instance, these employees worked modified duty only after having also missed work because of their injuries. See also Appendix D			

Berkeley Police Department staff who manage and monitor workers' compensation claims capture information about lost time and modified duty in a database. However, they do not coordinate their efforts and share this database with the Berkeley Police Safety Committee Chair. This is because the Safety Chair has historically been required to use a different system for collecting and reporting on injury trends and rates. This system is outdated and does not allow the Safety Chair to filter, update, and refine injury data in a way that helps easily identify serious safety concerns and injury trends and rates.

Data sharing and collaboration will eliminate redundancies

By coordinating efforts and sharing the database, the Berkeley Police Department will make its injury and workers' compensation review practices more efficient. It will remove the need for staff to record data into separate systems, which will help ensure management and injury reviewers have consistent information. By streamlining current efforts, staff will be able to more efficiently provide management the information they need to fully understand where there are safety concerns, and where they should allocate limited resources to implement or improve injury prevention practices and procedures.

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**Staff may review injury report information to perform their work but files must remain *private and confidential***

During this audit, there was some uncertainty as to what information is considered protected by the U.S. Department of Health and Human Services' HIPAA Privacy Rule<sup>6</sup> because police personnel wanted to ensure they did not inadvertently release protected health information. HIPAA does not cover employee injury reports and related data. However, these records must be appropriately safeguarded. California Civil Code requires employers to ensure that personnel information is kept confidential and protected from unauthorized use and disclosure.<sup>7</sup> The California Penal Code imposes further restrictions on sworn police officer's personnel records to prevent their information from being shared in any civil or criminal proceedings without first going through a special hearing.<sup>8</sup>

Staff demonstrated that they understand the importance of keeping personnel records private. However, their uncertainty as to what information is covered by HIPAA and who should be able to access injury records and related data indicated that guidance is needed to help define what privacy laws cover personnel records and clarify how this information should be restricted to only those who need the information to perform their work.

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**Workers' compensation claims information provides insight as to the severity and impact of an injury**

The Berkeley Police Department can learn more about the severity and impact of injuries through coordination with the Department of Human Resources. Historically, once City staff sent injury reports to Human Resources they did not receive sufficient information about the status of the workers' compensation claims. Human Resources has been improving its practices and communicating more with the individual departments. These improvements will help provide management with information about employee injuries and workers' compensation costs, as well as help identify employees needing assistance in returning to work and working on a modified duty basis. We did not audit Human Resources' process for assisting supervisors in returning employees to work on full

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<sup>6</sup> The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security, and Breach Rule <http://www.hhs.gov/ocr/privacy/>

<sup>7</sup> California Civil Code, Section 56.20: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=56.20-56.245>

<sup>8</sup> California Penal Code Chapter, Section 830-832.17: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=830-832.17>

duty or a modified basis; however, we recognize that helping employees return to work is one of management’s tools for reducing workers’ compensation costs.

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**Redefining injury code classifications will help with identifying trends and concerns**

The Berkeley Police Safety Committee uses “primary factor” codes to classify injuries, but the codes do not provide management with enough information for analysis. For example, the codes:

- Classify injuries from training simulations and from workouts into the same category. These are distinctly different activities requiring different injury prevention techniques.
- Lack an identifier for cumulative injuries. This forces staff to use codes that fail to adequately classify an ongoing problem.
- Use “other,” “inattention,” and “lack of knowledge” to classify injuries. These are too vague to provide insight as to what happened or identify injuries that are simply accidents, for example, a “slip and fall.”
- Do not distinguish between sworn and nonsworn employees. This skews management’s perspective because the circumstances of injuries sustained by sworn officers can be significantly different than those sustained by nonsworn personnel.

Having clear information and refining data would also help provide City Management with more succinct information on injuries resulting from altercations with combative subjects.

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**Management can demonstrate its commitment to injury reduction with performance measures**

Coordinating efforts within the department and updating injury code classifications will also help the Berkeley Police Department in establishing performance measures. The State of California Occupational Safety and Health Division identifies performance measures as a key component of management’s commitment to an effective workplace injury and illness prevention program.<sup>9</sup> Using measurements – such as ten percent fewer back injuries next year – allows management to identify high-risk areas and focus on specific needs for improving safety and safety equipment. Reaching

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<sup>9</sup> Cal/OSHA Guide to Developing Your Workplace Injury & Illness Prevention Program: [http://www.dir.ca.gov/dosh/dosh\\_publications/iipp.pdf](http://www.dir.ca.gov/dosh/dosh_publications/iipp.pdf)



these goals helps quantify achievements and build morale for employees working to prevent injuries.

The Berkeley Police Department does not use formal performance measures for reducing injuries. However, the department applies the principles in its practices. After recognizing that police officers often suffered injuries because of the weight of the gear they carry on their duty belts, the department began offering lighter duty belts to help reduce the carrying weight and provide greater mobility. This helped reduce back injuries within the department.

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**BPD staff proposed a well-defined employee wellness program; some courses already offered**

The Berkeley Police Department Safety Committee proposed a comprehensive employee wellness program that describes methods for preventing and reducing injuries from training, workouts, repetitive stress, mental stress, poor health, and several presumptive illnesses. The Berkeley Police Department has implemented many of the concepts in the committee's proposal, including a fatigue mitigation course that emphasizes staying fit, eating right, getting rest and sleep, and managing stress. All are important concepts for police personnel working in a high-stress and physically demanding environment.

The Berkeley Police Department understands the value and potential of implementing the full program proposal, but resource limitations have delayed the department's progress towards full implementation. In order to provide a comprehensive wellness program that meets the needs of all personnel, the department would have to divert staff and funding from other areas, which it cannot do without affecting its ability to deliver services. Although the department does not currently have the resources it needs to establish the complete program, it would benefit by defining what it can offer and establishing training goals in a written fitness and wellness plan. Berkeley Police Department Professional Standards staff prepared a training board that serves as their guide in organizing employee wellness training courses throughout the year. Management can use that information, as well as the proposed program, as an outline for developing a written employee wellness program. This will help staff understand management's expectations, help ensure established training efforts continue, and provide all personnel information on fitness and wellness resources.

Next step: formalize a plan with training goals for fitness and wellness

### Berkeley Police Department Professional Standards Unit Training Board



Employees can use the YMCA at a discounted rate

Management can also use the written plan to encourage employees to take advantage of the City's YMCA Membership benefit. The Berkeley Downtown YMCA is conveniently located across the street from City Hall on Milvia Street. It provides a variety of recreational, fitness, and health-related services. To help employees maintain physical and mental wellness, the City subsidizes the services for most employees, including sworn and nonsworn police personnel, by paying 75 percent of the membership fee. Employees who choose to join the YMCA pay the remainder of the fee and participate on their own time.

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### Recommendations

Develop citywide written guidance to assist staff in performing injury investigations

### The Department of Human Resources should:

- 1.1 Develop citywide written guidance for using the core-related-cause principle in performing injury investigations. Include information for:
  - Helping supervisors understand when an injury warrants a detailed investigation.
  - Assessing an injury to determine what safety procedures and practices the employee used.
  - Collecting the information that management and safety personnel need to identify safety concerns that require new or improved injury prevention measures.
  - Identifying the relationship between factors that contributed to an accident/injury.

- Identifying the circumstantial connections that led to an accident/injury.
- Ensuring that supervisors investigate injuries to identify corrective actions and forward the information to those that need it so they may implement disciplinary action, if appropriate.
- Establishing protocols for keeping personnel information private and confidential and restricted to only those that need it to perform their work. This includes explaining that injury reports and related data are not covered by HIPAA, but they are covered by various state privacy laws.

Provide training to staff responsible for investigating the cause of injuries

1.2 Continue to provide ongoing training sessions for supervisors and others responsible for investigating the cause of injuries. Training can be accomplished using in-person and online formats and should cover the topics described in the citywide written guidance. See recommendation 1.1.

Continue to coordinate with departments to provide workers' comp information

1.3 Continue coordinating with City departments so that they have current information about the status of injury reports and resulting workers' compensation claims, and continue providing guidance to supervisors that need assistance in returning employees to work fully or on a modified basis. Ensure that the departments receive workers' compensation information on a regular basis to update their own records. This should be at least monthly for large departments with a high injury rate and as needed for departments with low injury rates.

**The Berkeley Police Department should:**

Use a single database to collect information about employee injuries and workers' compensation claims

1.4 Remove duplication of efforts and ensure consistent information by using a single database to collect information and prepare reports on employee injuries and workers' compensation claims. This includes:

- Identifying whether an injury resulted in lost time or modified duty so that management can identify injuries that have a significant impact on employees and the department. This includes keeping historical information about lost time and modified duty as well as updating the status.

- Continuing to use a database to run filtered and refined reports that highlight information that management needs to assess its injury trends and rates, and to implement or improve injury prevention measures.
  - Updating the data with information shared by Human Resources about the status of injury reports and workers' compensation claims.
  - Using the data to formalize performance measures that target injuries in high-risk areas.
  - Defining protocols for keeping personnel data private and confidential. See also recommendation 1.1.
- Update injury code classifications to help management understand the nature of injuries
- 1.5 Update the primary factors used to code and classify injuries so that management has more meaningful information about injuries. This includes:
- Distinguishing between training injuries and exercise injuries.
  - Adding codes for cumulative injuries and slip and falls.
  - Separating injuries for sworn and nonsworn personnel.
  - Adding other codes that will help management and injury reviewers understand the nature of the injuries.
- Formalize the employee wellness program in a plan designed to reduce injuries and provide employees with health and wellness resources
- 1.6 Assess the proposed employee wellness program and identify the topics and areas that the department can implement given its limited resources. Formalize those in a written plan so that staff continue to provide training and resources, and meet management's expectations for a fitness and wellness program. Include goals for providing training and information that will help employees maintain a level of health and wellness that will allow them to carry out their full range of duties.

***City Manager's Response***

The City Manager agreed with the recommendations. The full response is at Appendix B.

## FISCAL IMPACT

### Over \$6 million in citywide workers' compensation claims paid out in fiscal year 2013

The City of Berkeley spent over \$6 million for workers' compensation claims pay outs in fiscal year 2013: \$742,000 for claims filed in 2013 and \$5.3 million for claims filed in previous years going as back as far as 1950. This includes costs for medical treatment, disability payments, litigation expenses, and payroll expenses for salary continuation due to lost time. It does not include the salaries and benefits for the staff investigating injuries, and managing and monitoring workers' compensation claims as those costs cannot be easily tied to workers' compensation claims. Reducing these costs means lowering the number of workplace injuries. Management can achieve this by understanding what leads to the more severe and, therefore, the most costly injuries and focusing efforts on injury prevention in those high-risk areas.

### Workers' comp claims continue to incur costs for years

The City continues to incur workers' compensation costs well after the injury or illness date. This includes costs for medical treatment, lost time, litigation, and potential permanent disability. These are just two examples of how costly and longstanding a single workers' compensation claim can be:

Berkeley Police Department		
Injury / Illness Date	Total Cost*	Types
May 27, 1980	\$89,823	Injury
September 13, 1990	\$1,843,298	Presumptive Illness
*As of July 31, 2014		

### BPD spent \$2.4 million on workers' compensation related costs in fiscal year 2013

The Berkeley Police Department spent nearly \$2.4 million in fiscal year 2013 on workers' compensation costs: \$1.9 million to help fund the City's Workers' Compensation Fund and nearly \$500,000 in payroll costs for employees out on leave because of a workplace injury.

Implementing our recommendations should help control workers' compensation costs.

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## CONCLUSION

### **Injury investigation should focus on solving a problem, not a symptom**

Management can take action to prevent a workplace injury from recurring when it understands why the injury happened. This means identifying more than just the surface cause and gaining information about the core cause or causes of the injury. This helps management address the problem that led to the injury, not just the symptom. City policy requires supervisors to investigate injuries and identify the root cause, but supervisors do not have the guidance they need to perform the work. It may not be practical to do an extensive root-cause analysis for all injuries, but assisting supervisors in applying the core-related-cause principle will improve investigations.

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### **Existing data and improved systems will help management target risk areas**

The very nature of police work makes it difficult for management to control the environment in which officers are injured. Unlike other industries in which management can establish step-by-step procedures to ensure safety, police officers enter highly unpredictable situations that can lead to injury no matter how well prepared. Although management cannot put procedures in place to prevent all injuries, it can use existing systems and data to focus on the right areas. The Berkeley Police Department can:

- Obtain and share information about workers' compensation claims through collaboration with Human Resources and by using a single, consolidated database.
- Redefine injury code classifications to look for trends and better understand the nature of injuries.
- Use performance measures to identify high-risk activities and target resources to reduce injuries in those areas.
- Document its employee wellness program to help prepare officers for the physical demands and challenges of their work.

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### **BPD and Human Resources are working to make Berkeley a safe place to work**

We would like to thank the Berkeley Police Department and Human Resources for their continued cooperation during this audit. We appreciate the departments' receptiveness to our findings and recommendations, and their willingness to make improvements aimed at reducing workplace injuries and providing employees with a safer, healthier workplace.

## **APPENDIX A:**

### **Scope and Methodology**

We audited the Berkeley Police Department's injury review and prevention activities. We focused on assessing practices for identifying the root cause, and reviewing employee injury and illness reports and related workers' compensation information to understand the severity and impact of those injuries. We compared the City's Occupational Health and Safety Officer's description of the core-related cause principle against industry guidance for accident investigations. We also assessed opportunities for using existing systems and data to improve injury review and analysis, implement injury prevention measures, and reduce injury rates. We met with Berkeley Police Department and Human Resources personnel to gain an understanding of practices within the Berkeley Police Department as well as citywide. We reviewed:

- City administrative regulations and procedures
- Berkeley Police Department policies and procedures, and budget information
- Human Resources workers' compensation and employee safety reports
- Federal and State labor laws
- Employee injury reports and summarized data
- Fitness and wellness standards and industry best practices
- Studies and reports on injury prevention tools and investigation methods
- Berkeley Police Association Memorandum of Understanding
- Workers' compensation and workplace injury audits performed by other jurisdictions

#### *Auditor Independence*

We identified two possible threats to our independence. We assessed both prior to starting audit work and put safeguards in place to eliminate any actual or perceived threat:

- The City Auditor's Office is divided into two divisions: Performance Audit and Payroll Audit. The City Auditor is responsible for oversight and management of both divisions. To ensure our independence, we obtained payroll system data for comparative purposes only and did not audit Payroll Audit operations or the data.
- The lead auditor for this audit previously served as an alternate member on the City's Safety Committee in a limited capacity. We recognized a possible conflict as we started this audit when we determined that our audit work could include a review of the City Safety Committee's actions and responsibilities. To eliminate any perceived threat to independence, the lead auditor resigned from the safety committee.

#### *Data Reliability*

We obtained injury and workers compensation data from the City's financial system, FUNDS; Excel spreadsheets from Human Resources and Innovative Claims Solutions; and a Berkeley

Police Department database. We used that data to understand the audited program and help develop our audit work. We did not use the data to support our findings, conclusions, or recommendations; therefore, we did not assess the reliability of the data.

We obtained Berkeley Police Department injury data from Berkeley Police Safety Committee reports. We assessed the reliability of the injury data by interviewing personnel knowledgeable about the data, performing data testing, and by tracing each data record to source documents. We determined that the data were sufficiently reliable for the purpose of our audit report.

*Standards Compliance Statement*

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



## APPENDIX B

### Audit Findings, Recommendations, and Management Response Summary

Audit Title: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City					
Findings and Recommendations	Lead Dept.	Agree, Partially Agree, or Do Not Agree and Corrective Action Plan	Expected or Actual Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary	
<b>Finding 1: Better injury analysis, use of existing data, and a written wellness program will help reduce injuries and improve employee health and fitness</b>					
1.1	Develop citywide written guidance for using the core-related-cause principle in performing injury investigations. Include information for: <ul style="list-style-type: none"> <li>▪ Helping supervisors understand when an injury warrants a detailed investigation.</li> <li>▪ Assessing an injury to determine what safety procedures and practices the employee used.</li> <li>▪ Collecting the information that management and safety personnel need to identify safety concerns that require new or improved injury prevention measures.</li> <li>▪ Identifying the relationship between factors that contributed to an accident/injury.</li> <li>▪ Identifying the circumstantial connections that led to an accident/injury.</li> </ul>	Human Resources	<p>Agree.</p> <p>The Occupational Health and Safety Officer (OHSO) started this process in January of 2014 by introducing core-related-causes in Citywide safety committee meetings and departmental safety committee meetings. The Employee Incident Form and the Supervisor’s Investigation Form were revised in early April 2014, expanding sections 11-14 and sections 11-24, respectively, as these sections now capture narratives core-related-cause information. The revised forms were incorporated in the Injury Illness Prevention Program as well as the City of Berkeley’s Administrative Regulation (A.R.) 2.7-Workers’ Compensation Procedures and Responsibilities, updated and re-issued May 2014.</p> <p>The OHSO, in coordination with the Citywide Safety Committee, are making final considerations for the citywide written guidance in utilizing the core-related-cause</p>	<p>Partially implemented May 2014</p> <p>Full implementation expected 12/31/2014</p>	

<b>Audit Title: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City</b>				
<b>Findings and Recommendations</b>	<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>
<ul style="list-style-type: none"> <li>▪ Ensuring that supervisors investigate injuries to identify corrective actions and forward the information to those that need it so they may implement disciplinary action, if appropriate.</li> <li>▪ Establishing protocols for keeping personnel information private and confidential and restricted to only those that need it to perform their work. This includes explaining that injury reports and related data are not covered by HIPAA, but they are covered by various state privacy laws.</li> </ul>		<p>principles when conducting injury investigations. These guidelines will be added to the investigation section of the Injury Illness Prevention Program (IIPP). The guidelines include: an introduction on supervisor’s responsibilities for accident investigation including process for corrective actions; pertinent information gathering; and identifying factors and connections that contribute to accidents and injuries.</p> <p>On the issue of confidentiality, staff will update A.R. 2.7 to include confidentiality protocols for injury and medical reports and clearly identify who should, or can, have access to these records.</p>		
1.2 Continue to provide ongoing training sessions for supervisors and others responsible for investigating the cause of injuries. Training can be accomplished using in-person and online formats and should cover the topics described in the citywide written guidance. See recommendation 1.1	Human Resources	<p>Agree.</p> <p>One-on-One discussion and explanations regarding comprehensive injury reports continue to be implemented. The OHSO reviews all injury reports and provides individual discussion and guidance to increase the quality of future reports. Training for those responsible for injury investigation will continue through periodic informational notifications with relevant content regarding core-related-cause</p>	<p>Partially implemented January 2014</p> <p>Full implementation expected 4/30/2015</p> <p>Training will be ongoing</p>	

<b>Audit Title: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City</b>					
<b>Findings and Recommendations</b>		<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>
			principles that are consistent with the citywide guidance.		
1.3	Continue coordinating with City departments so that they have current information about the status of injury reports and resulting workers' compensation claims, and continue providing guidance to supervisors that need assistance in returning employees to work fully or on a modified basis. Ensure that the departments receive workers' compensation information on a regular basis to update their own records. This should be at least monthly for large departments with a high injury rate and as needed for departments with low injury rates.	Human Resources	Agree. Human Resources will continue to maintain our efforts of coordinating with City Departments regarding current information and status of Worker's Compensation injuries and providing guidance to supervisors on employees returning to work after an injury. Reports identifying all open Worker's Compensation claims are currently sent to each department head on a monthly basis and the Human Resources Workers' Compensation Analyst meets on a monthly basis with larger departments to review claims in their specific departments.	June 2014	
1.4	Remove duplication of efforts and ensure consistent information by using a single database to collect information and prepare reports on employee injuries and workers' compensation claims. This includes: <ul style="list-style-type: none"> <li>Identifying whether an injury resulted in lost time or modified duty so that</li> </ul>	Berkeley Police Department	Agree. The police department will integrate the dual databases that are currently being utilized to collect information and prepare reports on employee injuries and workers' compensation claims. The integration will include information from Human Resources about the status of injury reports, lost time,	April 2015	

<b>Audit Title: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City</b>					
<b>Findings and Recommendations</b>		<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>
	<p>management can identify injuries that have a significant impact on employees and the department. This includes keeping historical information about lost time and modified duty as well as updating the status.</p> <ul style="list-style-type: none"> <li>▪ Continuing to use the database to run filtered and refined reports that highlight information that management needs to assess its injury trends and rates, and to implement or improve injury prevention measures.</li> <li>▪ Updating the data with information shared by Human Resources about the status of injury reports and workers' compensation claims.</li> <li>▪ Using the data to formalize performance measures that target high-risk areas.</li> <li>▪ Defining protocols for keeping personnel data private and confidential. See also recommendation 1.1.</li> </ul>		<p>and/or modified duty so that the department can identify significant injuries. Historical information about lost time and modified duty will be captured as well as status updates.</p> <p>Filtered and refined reports will continue to be run to assist management in assessing injury trends and to assist with implementing or improving injury prevention. We will use the data to develop performance measures.</p> <p>The police department will comply with updates to A.R. 2.7 that define protocols for the privacy and protection of personnel data.</p>		
1.5	<p>Update the primary factors used to code and classify injuries so that management has more meaningful information about injuries. This includes:</p>	Berkeley Police Department	<p>Agree</p> <p>The chair of the department Safety Committee will update the primary factors used to code and classify injuries to include</p>	February 2015	

<b>Audit Title: Injury Prevention: Better Investigations and Data Use will Help the Berkeley Police Department and the City</b>					
<b>Findings and Recommendations</b>		<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>
	<ul style="list-style-type: none"> <li>▪ Distinguishing between training injuries and exercise injuries.</li> <li>▪ Adding codes for cumulative injuries and slip and falls.</li> <li>▪ Separating injuries for sworn and nonsworn personnel.</li> <li>▪ Adding other codes that will help management and injury reviewers understand the nature of the injuries.</li> </ul>		<p>distinguishing between police training and physical fitness training related injuries. The chair will also add additional codes for cumulative and slip and fall types of injuries.</p> <p>Information will be separated by sworn and professional staff to provide additional information by job classification. Additional codes that will assist management and the Safety Committee understand the nature of the injuries will be evaluated.</p>		
1.6	<p>Assess the proposed employee wellness program and identify the topics and areas that the department can implement given its limited resources. Formalize those in a written plan so that staff continue to provide training and resources, and meet management’s expectations for a fitness and wellness program. Include goals for providing training and information that will help employees maintain a level of health and wellness that will allow them to carry out their full range of duties.</p>	Berkeley Police Department	<p>Agree.</p> <p>The police department partially implemented recommendations of the department Safety Committee regarding the wellness program in 2013, and continue to offer services and programs that further the goals of the wellness program. The department will formalize the wellness program in a written document.</p>	June 2015	

## APPENDIX C

### Berkeley Police Department Injury Classifications

The Berkeley Police Department Safety Committee uses primary factors to code injuries for analysis. The department has fourteen primary factor code classifications, which it assigns to injuries to both sworn and nonsworn personnel injuries. The committee meets monthly to discuss employee injury reports and assigns one or more of these codes to each incident based on the discussion of the incident and the documented cause(s) of the injury:

Primary Factors			
Code	Description	Code	Description
1	Detention/Arrest/Booking Procedures	8	Training related
2	Driving (collision)	9	Public Safety Building site related
3	Driving (other)	10	Substation site related
4	Equipment (fleet)	11	Presumptive (heart, hernia, etc.) <sup>1</sup>
5	Equipment (other)	12	Lack of knowledge or skill, or inattention
6	Exposure (to illness)	13	Stress
7	Repetitive motion	14	Other

<sup>1</sup> California Labor Code Section 3213 requires claims that include cancer, hernia, hearing loss, and psychological disorders reported by police and fire safety employees to be considered work related. However, these claims cannot be tied to a particular policy, procedure, or action that could have prevented the injury.<sup>10</sup>

<sup>10</sup> <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=03001-04000&file=3200-3219>

## APPENDIX D

### Berkeley Police Department Injury and Illness Exposure Reports

Source: Berkeley Police Department

<b>Injury and Illness Exposure Reports Fiscal Year 2013</b>			
	<b>Sworn</b>	<b>Nonsworn</b>	<b>Total</b>
Injury and illness exposure <sup>1</sup> reports	81	18	99
Injuries resulting in lost time	15	13	28
Injuries resulting in modified duty <sup>2</sup>	9	4	13

<sup>1</sup> The Berkeley Police Department keeps track of when officers are exposed to an illness in case the exposure converts to the actual illness, which generally does not happen.

<sup>2</sup> In all but one instance, these employees worked modified duty only after having also missed work because of their injuries.

<b>All Injuries by Primary Factor Fiscal Year 2013</b>			
Displays information on only the first code assigned to each injury			
<b>Description</b>	<b>Sworn</b>	<b>Nonsworn</b>	<b>Total</b>
Detention / Arrest / Booking Procedures	31	2	33
Driving (collision and other)	2	2	4
Equipment (fleet and other)	6	2	8
Exposure	17	0	17
Lack of knowledge or skill, or inattention	4	4	8
Other	3	1	4
Presumptive	1	0	1
Repetitive Motion	2	4	6
Stress	0	2	2
Training Related	15	1	16
<b>Total</b>	<b>81</b>	<b>18</b>	<b>99</b>

<b>Lost Time Injuries by Primary Factor Fiscal Year 2013</b>			
Displays information on only the first code assigned to each injury			
<b>Description</b>	<b>Sworn</b>	<b>Nonsworn</b>	<b>Total</b>
Detention / Arrest / Booking Procedures	8	2	10
Driving (collision and other)	0	2	2
Equipment (fleet and other)	2	0	2
Exposure	0	0	0
Lack of knowledge or skill, or inattention	2	3	5
Other	0	1	1
Presumptive	0	0	0
Repetitive Motion	0	3	3
Stress	0	1	1
Training Related	3	1	4
<b>Total</b>	<b>15</b>	<b>13</b>	<b>28</b>